

1 well have exhausted all available administrative remedies if his appeal has been
2 screened out, see, e.g., Ngo v. Woodford, 403 F.3d 620, 631 (9th Cir. 2005)
3 (holding that a prisoner has exhausted all available administrative remedies when
4 his first formal appeal was screened out as untimely and he was informed that the
5 decision could not be appealed except if he alleged that it was in fact timely), but
6 this simply means that he may now be free to file a new action, not that judgment
7 should be altered/amended and this action reinstated, cf. McKinney, 311 F.3d at
8 1199-01 (action must be dismissed without prejudice unless prisoner exhausted
9 available administrative remedies before he filed suit, even if prisoner exhausts
10 while the suit is pending).

11 SO ORDERED.

12 DATED: November 17, 2005

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14 CHARLES R. BREYER
15 United States District Judge
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